

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24358 of 2016
and
WMP.No.20832 of 2016

Madras Kerala Samaj
New No.9, Old No.903,
Poonamallee High Road, Chennai - 600 084
rep. By its General Secretary,
Mr.Kumbalangad Unnikrishnan Petitioner

Vs.

1. The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.
2. The Senior Accounts Officer,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.
3. The Area Engineer-VIII
Chennai Metropolitan Water Supply
and Sewerage Board,
No.227, II Avenue, Anna Nagar,
Chennai - 600 040.
4. The Assistant Revenue Officer,
Corporation of Chennai, Zone VIII,
Division 104, Shenoy Nagar,
Chennai - 600 040 ... Respondents

(R4 impleaded as per order dt.19.07.2016
in WMP.No.21376 of 2016 and made herein)

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Demand Notice dated 24.11.2015 issued by the second respondent and quash the same and direct the respondents to refund the amount of Rs.1,00,000/- to the petitioner.

For Petitioner : No appearance

For RR 1 to 3 : No appearance

For R4 : No appearance

ORDER

None appears for the petitioner and there is no representation on behalf of the respondents.

2.The petitioner is a society registered under the provisions of the Societies Registration Act established during the year 1939 with certain avoved objects. The petitioner society owns a building bearing Old No.903, New No.9, Poonamallee High Road, Chennai 600 084 and a Higher Secondary School is functioning in the said building. It is stated that the entire building is utilised for the school and the school is an Aided Institution receiving grant in aid from the Government of Tamil Nadu. It is stated that the students studying in the school hail from economically weaker sections of the population and no fee is collected from the students. Further, the petitioner would state that no part of the building has been rented out and no income is received from the building. Since the entire building is utilised for running a school, no property tax has been levied on the petitioner. However, the respondent Board has been collecting water and sewerage tax as well as water charges. The petitioner was shocked to receive a demand notice dated 24.11.2015 demanding higher rate of half-yearly water and sewerage tax. The tax was enhanced from Rs.1504/- to Rs.62,076/- with retrospective effect from first half-year 2013 and the annual value has been increased from Rs.42,970/- to Rs.17,73,595/-. The petitioner would state that before increasing the annual value of the building, no notice was issued to them by the Corporation of Chennai. On receipt of the demand notice from the respondent Board, demanding higher rate of water and sewerage tax, the petitioner is stated to have submitted a representation to the Finance Director of CMWSSB on 23.03.2016 as well as to the Senior Accounts Officer on 13.05.2016. Earlier the petitioner has submitted representation to the Hon'ble Chief Minister's Special Cell on 18.01.2016. While so, the officials of the respondent Board had come to the school premises for disconnection of the water and sewerage connection and the petitioner rushed to this Court and filed this writ petition. Thus, the demand issued by the CMWSSB is solely based upon the revision of the annual value of the building. However, the annual value of the

building has been revised without affording any opportunity to the petitioner to contest the same.

3. In the light of the above facts, this Court is inclined to dispose of the Writ Petition, by passing the following order:

(i) The impugned demand shall be kept in abeyance and the petitioner shall continue to pay water and sewerage tax at the pre-revised rate;

(ii) The petitioner is entitled to submit an objection before the Competent Authority of the Corporation of Chennai within a period of 15 days from the date of receipt of a copy of this order and such Competent Authority shall issue a show cause notice to the petitioner clearly indicating as to how the annual value of the building is sought to be revised. On receipt of the notice, the petitioner is entitled to submit their objection and the Competent Authority shall pass an order on merits and in accordance with law. If the petitioner is still aggrieved, it will be open to the petitioner to approach the Appellate Tribunal under the provisions of the Chennai City Municipal Corporation Act.

(iii) Till the annual value of the building is properly determined after due notice to the petitioner, the respondent Board shall not demand enhanced water and sewerage tax but shall accept payment of pre-revised tax.

4. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sgl

To

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Chennai Metropolitan Water Supply
and Sewerage Board,
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Chintadripet, Chennai - 600 002.

2. The Senior Accounts Officer,
Chennai Metropolitan Water Supply
and Sewerage Board,

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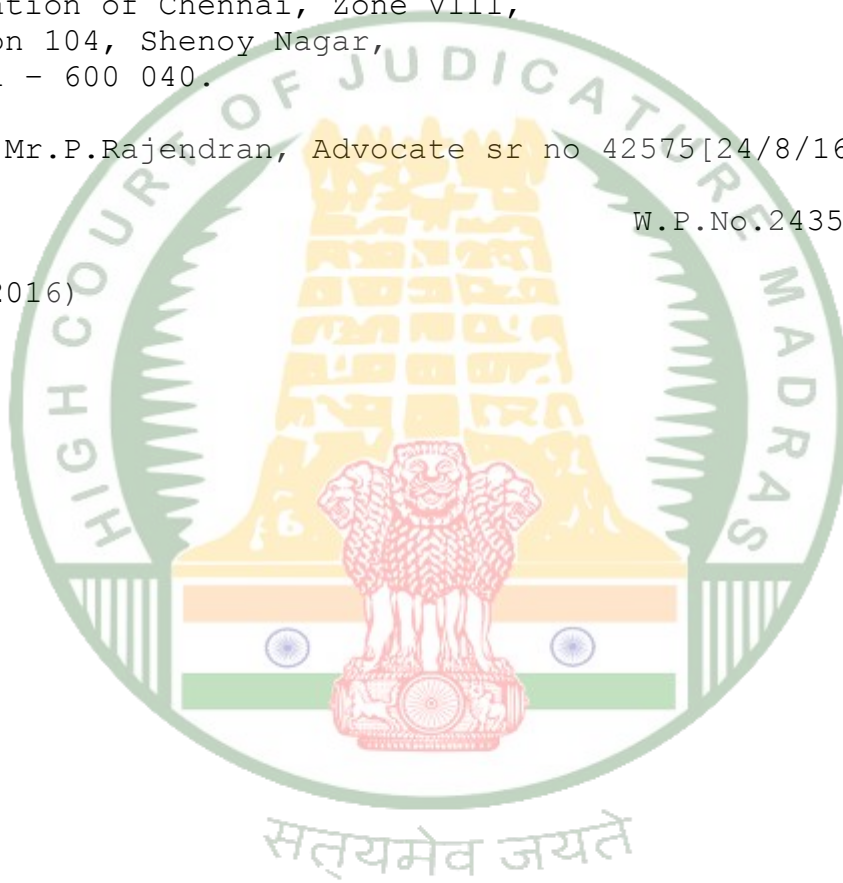
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Division 104, Shenoy Nagar,
Chennai - 600 040.

+ 1 CC to Mr.P.Rajendran, Advocate sr no 42575[24/8/16]

W.P.No.24358 of 2016

VD(CO)
CA(11/08/2016)



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